

SENATE BILL No. 14

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-13-2-14.7; IC 10-13-3-27; IC 11-8-8; IC 20-28-5-8; IC 22-5-5-1; IC 31-14-14-1; IC 33-37-5-23; IC 33-39-1-9; IC 35-36-10-2; IC 35-38-2-2.5; IC 35-42; IC 35-50.

Synopsis: Child exploitation and child pornography. Makes the offense of child exploitation a Level 4 felony instead of a Level 5 felony if the offense depicts or describes a child less than 18 years of age who: (1) engages in bestiality; (2) is mentally disabled or deficient; (3) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force; (4) physically or verbally resists participating in the sexual conduct, matter, performance, or incident; or (5) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident. Makes the offense of possession of child pornography a Level 5 felony instead of a Level 6 felony if the offense depicts or describes sexual conduct by a child who the defendant knows is less than 18 years of age, or who appears to be less than 18 years of age, who: (1) engages in bestiality; (2) is mentally disabled or deficient; (3) participates in the sexual conduct by use of force or the threat of force; (4) physically or verbally resists participating in the sexual conduct; or (5) receives a bodily injury while participating in the sexual conduct. Adds the crime of child exploitation to the definition of "crime of violence" for purposes of the law concerning a court's determination whether terms of imprisonment should be served concurrently or consecutively. (A person who commits a "crime of violence" may receive a longer sentence.) Makes conforming amendments.

Effective: July 1, 2016.

Head

January 5, 2016, read first time and referred to Committee on Corrections & Criminal Law.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 14

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-13-2-14.7, AS AMENDED BY P.L.168-2014,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 14.7. A person employed, appointed, or under
4 contract with a state agency, who works with or around children, shall
5 be dismissed (after the appropriate pre-deprivation procedure has
6 occurred) if that person is, or has ever been, convicted of any of the
7 following:
8 (1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)
9 years of age.
10 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal), if
11 the victim is less than eighteen (18) years of age.
12 (3) Child molesting (IC 35-42-4-3).
13 (4) Child exploitation (IC 35-42-4-4(b) or **IC 35-42-4-4(c)**).
14 (5) Vicarious sexual gratification (IC 35-42-4-5).
15 (6) Child solicitation (IC 35-42-4-6).
16 (7) Child seduction (IC 35-42-4-7).
17 (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A



1 or Class B felony (for a crime committed before July 1, 2014) or
2 a Level 1, Level 2, or Level 4 felony (for a crime committed after
3 June 30, 2014).

4 (9) Incest (IC 35-46-1-3), if the victim is less than eighteen (18)
5 years of age.

6 SECTION 2. IC 10-13-3-27, AS AMENDED BY P.L.214-2013,
7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2016]: Sec. 27. (a) Except as provided in subsection (b), on
9 request, a law enforcement agency shall release a limited criminal
10 history to or allow inspection of a limited criminal history by
11 noncriminal justice organizations or individuals only if the subject of
12 the request:

13 (1) has applied for employment with a noncriminal justice
14 organization or individual;

15 (2) has:

16 (A) applied for a license or is maintaining a license; and

17 (B) provided criminal history data as required by law to be
18 provided in connection with the license;

19 (3) is a candidate for public office or a public official;

20 (4) is in the process of being apprehended by a law enforcement
21 agency;

22 (5) is placed under arrest for the alleged commission of a crime;

23 (6) has charged that the subject's rights have been abused
24 repeatedly by criminal justice agencies;

25 (7) is the subject of a judicial decision or determination with
26 respect to the setting of bond, plea bargaining, sentencing, or
27 probation;

28 (8) has volunteered services that involve contact with, care of, or
29 supervision over a child who is being placed, matched, or
30 monitored by a social services agency or a nonprofit corporation;

31 (9) is currently residing in a location designated by the
32 department of child services (established by IC 31-25-1-1) or by
33 a juvenile court as the out-of-home placement for a child at the
34 time the child will reside in the location;

35 (10) has volunteered services at a public school (as defined in
36 IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12)
37 that involve contact with, care of, or supervision over a student
38 enrolled in the school;

39 (11) is being investigated for welfare fraud by an investigator of
40 the division of family resources or a county office of the division
41 of family resources;

42 (12) is being sought by the parent locator service of the child



support bureau of the department of child services;
 (13) is or was required to register as a sex or violent offender
 under IC 11-8-8;

(14) has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen
 (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2) (repealed), if the
 victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b) or **IC 35-42-4-4(c)**).

(E) Possession of child pornography (~~IC 35-42-4-4(e)~~;
IC 35-42-4-4(d) or IC 35-42-4-4(e)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen
 (18) years of age.

(K) Attempt under IC 35-41-5-1 to commit an offense listed in
 clauses (A) through (J).

(L) Conspiracy under IC 35-41-5-2 to commit an offense listed
 in clauses (A) through (J).

(M) An offense in any other jurisdiction in which the elements
 of the offense for which the conviction was entered are
 substantially similar to the elements of an offense described
 under clauses (A) through (J);

(15) is identified as a possible perpetrator of child abuse or
 neglect in an assessment conducted by the department of child
 services under IC 31-33-8; or

(16) is:

(A) a parent, guardian, or custodian of a child; or

(B) an individual who is at least eighteen (18) years of age and
 resides in the home of the parent, guardian, or custodian;
 with whom the department of child services or a county probation
 department has a case plan, dispositional decree, or permanency
 plan approved under IC 31-34 or IC 31-37 that provides for
 reunification following an out-of-home placement.

However, limited criminal history information obtained from the
 National Crime Information Center may not be released under this
 section except to the extent permitted by the Attorney General of the
 United States.

(b) A law enforcement agency shall allow inspection of a limited



1 criminal history by and release a limited criminal history to the
2 following noncriminal justice organizations:

- 3 (1) Federally chartered or insured banking institutions.
4 (2) Officials of state and local government for any of the
5 following purposes:

- 6 (A) Employment with a state or local governmental entity.
7 (B) Licensing.

- 8 (3) Segments of the securities industry identified under 15 U.S.C.
9 78q(f)(2).

10 (c) Any person who knowingly or intentionally uses limited criminal
11 history for any purpose not specified under this section commits a
12 Class A misdemeanor.

13 SECTION 3. IC 11-8-8-4.5, AS AMENDED BY P.L.168-2014,
14 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2016]: Sec. 4.5. (a) Except as provided in section 22 of this
16 chapter, as used in this chapter, "sex offender" means a person
17 convicted of any of the following offenses:

- 18 (1) Rape (IC 35-42-4-1).
19 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
20 (3) Child molesting (IC 35-42-4-3).
21 (4) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).
22 (5) Vicarious sexual gratification (including performing sexual
23 conduct in the presence of a minor) (IC 35-42-4-5).
24 (6) Child solicitation (IC 35-42-4-6).
25 (7) Child seduction (IC 35-42-4-7).
26 (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A,
27 Class B, or Class C felony (for a crime committed before July 1,
28 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a
29 crime committed after June 30, 2014), unless:
30 (A) the person is convicted of sexual misconduct with a minor
31 as a Class C felony (for a crime committed before July 1,
32 2014) or a Level 5 felony (for a crime committed after June
33 30, 2014);
34 (B) the person is not more than:
35 (i) four (4) years older than the victim if the offense was
36 committed after June 30, 2007; or
37 (ii) five (5) years older than the victim if the offense was
38 committed before July 1, 2007; and
39 (C) the sentencing court finds that the person should not be
40 required to register as a sex offender.
41 (9) Incest (IC 35-46-1-3).
42 (10) Sexual battery (IC 35-42-4-8).



(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.

(13) Possession of child pornography (~~IC 35-42-4-4(c)~~): **(IC 35-42-4-4(d) or IC 35-42-4-4(e)).**

(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).

(15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.

(16) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).

(17) Human trafficking (IC 35-42-3.5-1(d)(3)) if the victim is less than eighteen (18) years of age.

(18) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).

(19) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (18).

(20) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (19).

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 4. IC 11-8-8-5, AS AMENDED BY P.L.168-2014,



SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex or violent offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A, Class B, or Class C felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a crime committed after June 30, 2014), unless:
 - (A) the person is convicted of sexual misconduct with a minor as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);
 - (B) the person is not more than:
 - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
 - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
 - (C) the sentencing court finds that the person should not be required to register as a sex offender.
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
- (13) Possession of child pornography (~~IC 35-42-4-4(c)~~) **(IC 35-42-4-4(d) or IC 35-42-4-4(e))**.
- (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).
- (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.



(16) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).

(17) Human trafficking (IC 35-42-3.5-1(d)(3)) if the victim is less than eighteen (18) years of age.

(18) Murder (IC 35-42-1-1).

(19) Voluntary manslaughter (IC 35-42-1-3).

(20) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).

(21) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (20).

(22) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (21).

(b) The term includes:

(1) a person who is required to register as a sex or violent offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 5. IC 20-28-5-8, AS AMENDED BY P.L.238-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 8. (a) This section applies when a prosecuting attorney knows that a licensed employee of a public school or a nonpublic school has been convicted of an offense listed in subsection (c). The prosecuting attorney shall immediately give written notice of the conviction to the following:

(1) The state superintendent.

(2) Except as provided in subdivision (3), the superintendent of the school corporation that employs the licensed employee or the equivalent authority if a nonpublic school employs the licensed employee.



(3) The presiding officer of the governing body of the school corporation that employs the licensed employee, if the convicted licensed employee is the superintendent of the school corporation.

(b) The superintendent of a school corporation, presiding officer of the governing body, or equivalent authority for a nonpublic school shall immediately notify the state superintendent when the individual knows that a current or former licensed employee of the public school or nonpublic school has been convicted of an offense listed in subsection (c), or when the governing body or equivalent authority for a nonpublic school takes any final action in relation to an employee who engaged in any offense listed in subsection (c).

(c) The department, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the department to have been convicted of any of the following felonies:

- (1) Kidnapping (IC 35-42-3-2).
- (2) Criminal confinement (IC 35-42-3-3).
- (3) Rape (IC 35-42-4-1).
- (4) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (5) Child molesting (IC 35-42-4-3).
- (6) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).
- (7) Vicarious sexual gratification (IC 35-42-4-5).
- (8) Child solicitation (IC 35-42-4-6).
- (9) Child seduction (IC 35-42-4-7).
- (10) Sexual misconduct with a minor (IC 35-42-4-9).
- (11) Incest (IC 35-46-1-3).
- (12) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
- (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- (14) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (15) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (17) Dealing in a counterfeit substance (IC 35-48-4-5).
- (18) Dealing in marijuana, hash oil, hashish, or salvia as a felony (IC 35-48-4-10).
- (19) Dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its amendment in 2013).
- (20) Possession of child pornography (~~IC 35-42-4-4(c)~~) **(IC 35-42-4-4(d) or IC 35-42-4-4(e))**.
- (21) Homicide (IC 35-42-1).



(22) Voluntary manslaughter (IC 35-42-1-3).

(23) Reckless homicide (IC 35-42-1-5).

(24) Battery as any of the following:

(A) A Class A felony (for a crime committed before July 1, 2014) or a Level 2 felony (for a crime committed after June 30, 2014).

(B) A Class B felony (for a crime committed before July 1, 2014) or a Level 3 felony (for a crime committed after June 30, 2014).

(C) A Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014).

(25) Aggravated battery (IC 35-42-2-1.5).

(26) Robbery (IC 35-42-5-1).

(27) Carjacking (IC 35-42-5-2) (before its repeal).

(28) Arson as a Class A felony or Class B felony (for a crime committed before July 1, 2014) or as a Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014) (IC 35-43-1-1(a)).

(29) Burglary as a Class A felony or Class B felony (for a crime committed before July 1, 2014) or as a Level 1, Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014) (IC 35-43-2-1).

(30) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.

(31) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

(d) The department, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the department to have been convicted of a federal offense or an offense in another state that is comparable to a felony listed in subsection (c).

(e) A license may be suspended by the state superintendent as specified in IC 20-28-7.5.

(f) The department shall develop a data base of information on school corporation employees who have been reported to the department under this section.

SECTION 6. IC 22-5-5-1, AS AMENDED BY P.L.214-2013, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. The employment contract of a person who:

(1) works with children; and

(2) is convicted of:

(A) rape (IC 35-42-4-1), if the victim is less than eighteen (18)



- 1 years of age;
- 2 (B) criminal deviate conduct (IC 35-42-4-2) (repealed), if the
- 3 victim is less than eighteen (18) years of age;
- 4 (C) child molesting (IC 35-42-4-3);
- 5 (D) child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**);
- 6 (E) vicarious sexual gratification (IC 35-42-4-5);
- 7 (F) child solicitation (IC 35-42-4-6);
- 8 (G) child seduction (IC 35-42-4-7); or
- 9 (H) incest (IC 35-46-1-3), if the victim is less than eighteen
- 10 (18) years of age;

11 may be canceled by the person's employer.

12 SECTION 7. IC 31-14-14-1, AS AMENDED BY P.L.95-2009,
 13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2016]: Sec. 1. (a) A noncustodial parent is entitled to
 15 reasonable parenting time rights unless the court finds, after a hearing,
 16 that parenting time might:

- 17 (1) endanger the child's physical health and well-being; or
- 18 (2) significantly impair the child's emotional development.

19 (b) The court may interview the child in chambers to assist the court
 20 in determining the child's perception of whether parenting time by the
 21 noncustodial parent might endanger the child's physical health or
 22 significantly impair the child's emotional development.

23 (c) In a hearing under subsection (a), there is a rebuttable
 24 presumption that a person who has been convicted of:

- 25 (1) child molesting (IC 35-42-4-3); or
- 26 (2) child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**);
- 27 might endanger the child's physical health and well-being or
- 28 significantly impair the child's emotional development.

29 (d) If a court grants parenting time rights to a person who has been
 30 convicted of:

- 31 (1) child molesting (IC 35-42-4-3); or
- 32 (2) child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**);
- 33 there is a rebuttable presumption that the parenting time with the child
- 34 must be supervised.

35 (e) The court may permit counsel to be present at the interview. If
 36 counsel is present:

- 37 (1) a record may be made of the interview; and
- 38 (2) the interview may be made part of the record for purposes of
- 39 appeal.

40 SECTION 8. IC 33-37-5-23, AS AMENDED BY P.L.168-2014,
 41 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2016]: Sec. 23. (a) This section applies to criminal actions.



(b) The court shall assess a sexual assault victims assistance fee of at least five hundred dollars (\$500) and not more than five thousand dollars (\$5,000) against an individual convicted in Indiana of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual battery (IC 35-42-4-8).
- (9) Sexual misconduct with a minor as a Class A or Class B felony (for a crime committed before July 1, 2014) or a Level 1 felony or Level 4 felony (for a crime committed after June 30, 2014) (IC 35-42-4-9).
- (10) Incest (IC 35-46-1-3).
- (11) Promotion of human trafficking (IC 35-42-3.5-1(a)).
- (12) Promotion of human trafficking of a minor (IC 35-42-3.5-1(b)).
- (13) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).
- (14) Human trafficking (IC 35-42-3.5-1(d)).

SECTION 9. IC 33-39-1-9, AS AMENDED BY P.L.214-2013, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9. A prosecuting attorney who charges a person with committing any of the following shall inform the person's employer of the charge, unless the prosecuting attorney determines that the person charged does not work with children:

- (1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
- (2) Criminal deviate conduct (IC 35-42-4-2) (repealed), if the victim is less than eighteen (18) years of age.
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

SECTION 10. IC 35-36-10-2, AS AMENDED BY P.L.6-2012, SECTION 223, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. As used in this chapter, "child



pornography" includes:

- (1) material described in ~~IC 35-42-4-4(e)~~; **IC 35-42-4-4(d)**; and
- (2) material defined in 18 U.S.C. 2256(8).

SECTION 11. IC 35-38-2-2.5, AS AMENDED BY P.L.214-2013, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2.5. (a) As used in this section, "offender" means an individual convicted of a sex offense.

(b) As used in this section, "sex offense" means any of the following:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (repealed).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual battery (IC 35-42-4-8).
- (9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
- (10) Incest (IC 35-46-1-3).

(c) A condition of remaining on probation or parole after conviction for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense.

(d) An offender:

- (1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the offender intends to reside during the period of probation:

(A) at the time of sentencing if the offender will be placed on probation without first being incarcerated; or

(B) before the offender's release from incarceration if the offender will be placed on probation after completing a term of incarceration; or

- (2) who will be placed on parole shall provide the parole board with the address where the offender intends to reside during the period of parole.

(e) An offender, while on probation or parole, may not establish a new residence within one (1) mile of the residence of the victim of the offender's sex offense unless the offender first obtains a waiver from the:

- (1) court, if the offender is placed on probation; or
- (2) parole board, if the offender is placed on parole;

for the change of address under subsection (f).

- (f) The court or parole board may waive the requirement set forth in



1 subsection (c) only if the court or parole board, at a hearing at which
 2 the offender is present and of which the prosecuting attorney has been
 3 notified, determines that:

- 4 (1) the offender has successfully completed a sex offender
- 5 treatment program during the period of probation or parole;
- 6 (2) the offender is in compliance with all terms of the offender's
- 7 probation or parole; and
- 8 (3) good cause exists to allow the offender to reside within one (1)
- 9 mile of the residence of the victim of the offender's sex offense.

10 However, the court or parole board may not grant a waiver under this
 11 subsection if the offender is a sexually violent predator under
 12 IC 35-38-1-7.5 or if the offender is an offender against children under
 13 IC 35-42-4-11.

14 (g) If the court or parole board grants a waiver under subsection (f),
 15 the court or parole board shall state in writing the reasons for granting
 16 the waiver. The court's written statement of its reasons shall be
 17 incorporated into the record.

18 (h) The address of the victim of the offender's sex offense is
 19 confidential even if the court or parole board grants a waiver under
 20 subsection (f).

21 SECTION 12. IC 35-42-3.5-1, AS AMENDED BY P.L.168-2014,
 22 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2016]: Sec. 1. (a) A person who, by force, threat of force, or
 24 fraud, knowingly or intentionally recruits, harbors, or transports
 25 another person:

- 26 (1) to engage the other person in:
- 27 (A) forced labor; or
- 28 (B) involuntary servitude; or
- 29 (2) to force the other person into:
- 30 (A) marriage;
- 31 (B) prostitution; or
- 32 (C) participating in sexual conduct (as defined by
- 33 IC 35-42-4-4);

34 commits promotion of human trafficking, a Level 4 felony.

35 (b) A person who knowingly or intentionally recruits, harbors, or
 36 transports a child less than:

- 37 (1) eighteen (18) years of age with the intent of:
- 38 (A) engaging the child in:
- 39 (i) forced labor; or
- 40 (ii) involuntary servitude; or
- 41 (B) inducing or causing the child to:
- 42 (i) engage in prostitution; or



- 1 (ii) engage in a performance or incident that includes sexual
 2 conduct in violation of IC 35-42-4-4(b) **or IC 35-42-4-4(c)**
 3 (child exploitation); or
 4 (2) sixteen (16) years of age with the intent of inducing or causing
 5 the child to participate in sexual conduct (as defined by
 6 IC 35-42-4-4);
 7 commits promotion of human trafficking of a minor, a Level 3 felony.
 8 Except as provided in subsection (e), it is not a defense to a prosecution
 9 under this subsection that the child consented to engage in prostitution
 10 or to participate in sexual conduct.
- 11 (c) A person who is at least eighteen (18) years of age who
 12 knowingly or intentionally sells or transfers custody of a child less than
 13 eighteen (18) years of age for the purpose of prostitution or
 14 participating in sexual conduct (as defined by IC 35-42-4-4) commits
 15 sexual trafficking of a minor, a Level 2 felony.
- 16 (d) A person who knowingly or intentionally pays, offers to pay, or
 17 agrees to pay money or other property to another person for an
 18 individual who the person knows has been forced into:
 19 (1) forced labor;
 20 (2) involuntary servitude; or
 21 (3) prostitution;
 22 commits human trafficking, a Level 5 felony.
- 23 (e) It is a defense to a prosecution under subsection (b)(2) if:
 24 (1) the child is at least fourteen (14) years of age but less than
 25 sixteen (16) years of age and the person is less than eighteen (18)
 26 years of age; or
 27 (2) all the following apply:
 28 (A) The person is not more than four (4) years older than the
 29 victim.
 30 (B) The relationship between the person and the victim was a
 31 dating relationship or an ongoing personal relationship. The
 32 term "ongoing personal relationship" does not include a family
 33 relationship.
 34 (C) The crime:
 35 (i) was not committed by a person who is at least twenty-one
 36 (21) years of age;
 37 (ii) was not committed by using or threatening the use of
 38 deadly force;
 39 (iii) was not committed while armed with a deadly weapon;
 40 (iv) did not result in serious bodily injury;
 41 (v) was not facilitated by furnishing the victim, without the
 42 victim's knowledge, with a drug (as defined in



IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(vi) was not committed by a person having a position of authority or substantial influence over the victim.

(D) The person has not committed another sex offense (as defined in IC 11-8-8-5.2), including a delinquent act that would be a sex offense if committed by an adult, against any other person.

SECTION 13. IC 35-42-4-4, AS AMENDED BY P.L.80-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) The following definitions apply throughout this section:

(1) "Disseminate" means to transfer possession for free or for a consideration.

(2) "Matter" has the same meaning as in IC 35-49-1-3.

(3) "Performance" has the same meaning as in IC 35-49-1-7.

(4) "Sexual conduct" means:

(A) sexual intercourse;

(B) other sexual conduct (as defined in IC 35-31.5-2-221.5);

(C) exhibition of the:

(i) uncovered genitals; or

(ii) female breast with less than a fully opaque covering of any part of the nipple;

intended to satisfy or arouse the sexual desires of any person;

(D) sadomasochistic abuse;

(E) sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with an animal; or

(F) any fondling or touching of a child by another person or of another person by a child intended to arouse or satisfy the sexual desires of either the child or the other person.

(b) A person who:

(1) knowingly or intentionally manages, produces, sponsors, presents, exhibits, photographs, films, videotapes, or creates a digitized image of any performance or incident that includes sexual conduct by a child under eighteen (18) years of age;

(2) knowingly or intentionally disseminates, exhibits to another person, offers to disseminate or exhibit to another person, or sends or brings into Indiana for dissemination or exhibition matter that depicts or describes sexual conduct by a child under eighteen (18) years of age;



(3) knowingly or intentionally makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts or describes sexual conduct by a child less than eighteen (18) years of age; or
 (4) with the intent to satisfy or arouse the sexual desires of any person:

(A) knowingly or intentionally:

- (i) manages;
- (ii) produces;
- (iii) sponsors;
- (iv) presents;
- (v) exhibits;
- (vi) photographs;
- (vii) films;
- (viii) videotapes; or
- (ix) creates a digitized image of;

any performance or incident that includes the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age;

(B) knowingly or intentionally:

- (i) disseminates to another person;
- (ii) exhibits to another person;
- (iii) offers to disseminate or exhibit to another person; or
- (iv) sends or brings into Indiana for dissemination or exhibition;

matter that depicts the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age; or

(C) makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts the uncovered genitals of a child less than eighteen (18) years of age or the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age;

commits child exploitation, a Level 5 felony.

(c) However, the offense of child exploitation described in subsection (b) is a Level 4 felony if the sexual conduct, matter, performance, or incident depicts or describes a child less than eighteen (18) years of age who:



- (1) engages in bestiality (as described in IC 35-46-3-14);**
- (2) is mentally disabled or deficient;**
- (3) participates in the sexual conduct, matter, performance, or incident by use of force or the threat of force;**
- (4) physically or verbally resists participating in the sexual conduct, matter, performance, or incident; or**
- (5) receives a bodily injury while participating in the sexual conduct, matter, performance, or incident.**

(c) (d) A person who knowingly or intentionally possesses:

- (1) a picture;
- (2) a drawing;
- (3) a photograph;
- (4) a negative image;
- (5) undeveloped film;
- (6) a motion picture;
- (7) a videotape;
- (8) a digitized image; or
- (9) any pictorial representation;

that depicts or describes sexual conduct by a child who the person knows is less than eighteen (18) years of age or who appears to be less than eighteen (18) years of age, and that lacks serious literary, artistic, political, or scientific value commits possession of child pornography, a Level 6 felony.

(e) However, the offense of possession of child pornography described in subsection (d) is a Level 5 felony if the item described in subsection (d)(1) through (d)(9) depicts or describes sexual conduct by a child who the person knows is less than eighteen (18) years of age, or who appears to be less than eighteen (18) years of age, who:

- (1) engages in bestiality (as described in IC 35-46-3-14);**
- (2) is mentally disabled or deficient;**
- (3) participates in the sexual conduct by use of force or the threat of force;**
- (4) physically or verbally resists participating in the sexual conduct; or**
- (5) receives a bodily injury while participating in the sexual conduct.**

(f) Subsections (b), ~~and~~ (c), **(d), and (e)** do not apply to a bona fide school, museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or to an employee of such a school, museum, or public library acting within the scope of the employee's employment when the possession of the listed materials is for



legitimate scientific or educational purposes.

~~(e)~~ (g) It is a defense to a prosecution under this section that:

(1) the person is a school employee; and

(2) the acts constituting the elements of the offense were performed solely within the scope of the person's employment as a school employee.

~~(f)~~ (h) Except as provided in subsection ~~(g)~~; (i), it is a defense to a prosecution under subsection (b), ~~or~~ (c), (d), or (e) if all of the following apply:

(1) A cellular telephone, another wireless or cellular communications device, or a social networking web site was used to possess, produce, or disseminate the image.

(2) The defendant is not more than four (4) years older or younger than the person who is depicted in the image or who received the image.

(3) The relationship between the defendant and the person who received the image or who is depicted in the image was a dating relationship or an ongoing personal relationship. For purposes of this subdivision, the term "ongoing personal relationship" does not include a family relationship.

(4) The crime was committed by a person less than twenty-two (22) years of age.

(5) The person receiving the image or who is depicted in the image acquiesced in the defendant's conduct.

~~(g)~~ (i) The defense to a prosecution described in subsection ~~(f)~~ (h) does not apply if:

(1) the person who receives the image disseminates it to a person other than the person:

(A) who sent the image; or

(B) who is depicted in the image;

(2) the image is of a person other than the person who sent the image or received the image; or

(3) the dissemination of the image violates:

(A) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);

(B) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);

(C) a workplace violence restraining order issued under



- 1 IC 34-26-6;
- 2 (D) a no contact order in a dispositional decree issued under
- 3 IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or
- 4 IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an
- 5 order issued under IC 31-32-13 (or IC 31-6-7-14 before its
- 6 repeal) that orders the person to refrain from direct or indirect
- 7 contact with a child in need of services or a delinquent child;
- 8 (E) a no contact order issued as a condition of pretrial release,
- 9 including release on bail or personal recognizance, or pretrial
- 10 diversion, and including a no contact order issued under
- 11 IC 35-33-8-3.6;
- 12 (F) a no contact order issued as a condition of probation;
- 13 (G) a protective order to prevent domestic or family violence
- 14 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2
- 15 before their repeal);
- 16 (H) a protective order to prevent domestic or family violence
- 17 issued under IC 31-14-16-1 in a paternity action;
- 18 (I) a no contact order issued under IC 31-34-25 in a child in
- 19 need of services proceeding or under IC 31-37-25 in a juvenile
- 20 delinquency proceeding;
- 21 (J) an order issued in another state that is substantially similar
- 22 to an order described in clauses (A) through (I);
- 23 (K) an order that is substantially similar to an order described
- 24 in clauses (A) through (I) and is issued by an Indian:
- 25 (i) tribe;
- 26 (ii) band;
- 27 (iii) pueblo;
- 28 (iv) nation; or
- 29 (v) organized group or community, including an Alaska
- 30 Native village or regional or village corporation as defined
- 31 in or established under the Alaska Native Claims Settlement
- 32 Act (43 U.S.C. 1601 et seq.);
- 33 that is recognized as eligible for the special programs and
- 34 services provided by the United States to Indians because of
- 35 their special status as Indians;
- 36 (L) an order issued under IC 35-33-8-3.2; or
- 37 (M) an order issued under IC 35-38-1-30.
- 38 ~~(H)~~ (J) It is a defense to a prosecution under this section that:
- 39 (1) the person was less than eighteen (18) years of age at the time
- 40 the alleged offense was committed; and
- 41 (2) the circumstances described in IC 35-45-4-6(a)(2) through
- 42 IC 35-45-4-6(a)(4) apply.



(k) A person is entitled to present the defense described in subsection (j) in a pretrial hearing. If a person proves by a preponderance of the evidence in a pretrial hearing that the defense described in subsection (j) applies, the court shall dismiss the charges under this section with prejudice.

SECTION 14. IC 35-42-4-11, AS AMENDED BY P.L.168-2014, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11. (a) As used in this section, and except as provided in subsection (d), "offender against children" means a person required to register as a sex or violent offender under IC 11-8-8 who has been:

- (1) found to be a sexually violent predator under IC 35-38-1-7.5; or
- (2) convicted of one (1) or more of the following offenses:
 - (A) Child molesting (IC 35-42-4-3).
 - (B) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
 - (C) Child solicitation (IC 35-42-4-6).
 - (D) Child seduction (IC 35-42-4-7).
 - (E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person is not the child's parent or guardian.
 - (F) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (E).
 - (G) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (F).

A person is an offender against children by operation of law if the person meets the conditions described in subdivision (1) or (2) at any time.

(b) As used in this section, "reside" means to spend more than three (3) nights in:

- (1) a residence; or
- (2) if the person does not reside in a residence, a particular location;

in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

- (1) resides within one thousand (1,000) feet of:
 - (A) school property, not including property of an institution providing post-secondary education;
 - (B) a youth program center; or
 - (C) a public park; or
- (2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense;



commits a sex offender residency offense, a Level 6 felony.

(d) This subsection does not apply to an offender against children who has two (2) or more unrelated convictions for an offense described in subsection (a). A person who is an offender against children may petition the court to consider whether the person should no longer be considered an offender against children. The person may file a petition under this subsection not earlier than ten (10) years after the person is released from incarceration or parole, whichever occurs last (or, if the person is not incarcerated, not earlier than ten (10) years after the person is released from probation). A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered an offender against children. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person should no longer be considered an offender against children. If a court finds that the person should no longer be considered an offender against children, the court shall send notice to the department of correction that the person is no longer considered an offender against children.

SECTION 15. IC 35-42-4-14, AS ADDED BY P.L.235-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 14. (a) As used in this section, "serious sex offender" means a person required to register as a sex offender under IC 11-8-8 who is:

- (1) found to be a sexually violent predator under IC 35-38-1-7.5;
- or
- (2) convicted of one (1) or more of the following offenses:
 - (A) Child molesting (IC 35-42-4-3).
 - (B) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).
 - (C) Possession of child pornography (~~IC 35-42-4-4(c)~~ **IC 35-42-4-4(d) or IC 35-42-4-4(e)**).
 - (D) Vicarious sexual gratification (IC 35-42-4-5(a) and IC 35-42-4-5(b)).
 - (E) Performing sexual conduct in the presence of a minor (IC 35-42-4-5(c)).
 - (F) Child solicitation (IC 35-42-4-6).
 - (G) Child seduction (IC 35-42-4-7).
 - (H) Sexual misconduct with a minor (IC 35-42-4-9).



- 1 (I) A conspiracy or an attempt to commit an offense described
 2 in clauses (A) through (H).
 3 (J) An offense in another jurisdiction that is substantially
 4 similar to an offense described in clauses (A) through (I).
 5 (b) A serious sex offender who knowingly or intentionally enters
 6 school property commits unlawful entry by a serious sex offender, a
 7 Level 6 felony.
- 8 SECTION 16. IC 35-50-1-2, AS AMENDED BY P.L.238-2015,
 9 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2016]: Sec. 2. (a) As used in this section, "crime of violence"
 11 means the following:
- 12 (1) Murder (IC 35-42-1-1).
 - 13 (2) Attempted murder (IC 35-41-5-1).
 - 14 (3) Voluntary manslaughter (IC 35-42-1-3).
 - 15 (4) Involuntary manslaughter (IC 35-42-1-4).
 - 16 (5) Reckless homicide (IC 35-42-1-5).
 - 17 (6) Aggravated battery (IC 35-42-2-1.5).
 - 18 (7) Kidnapping (IC 35-42-3-2).
 - 19 (8) Rape (IC 35-42-4-1).
 - 20 (9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 - 21 (10) Child molesting (IC 35-42-4-3).
 - 22 (11) Sexual misconduct with a minor as a Level 1 felony under
 - 23 IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).
 - 24 (12) Robbery as a Level 2 felony or a Level 3 felony
 - 25 (IC 35-42-5-1).
 - 26 (13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,
 - 27 or Level 4 felony (IC 35-43-2-1).
 - 28 (14) Operating a vehicle while intoxicated causing death
 - 29 (IC 9-30-5-5).
 - 30 (15) Operating a vehicle while intoxicated causing serious bodily
 - 31 injury to another person (IC 9-30-5-4).
 - 32 **(16) Child exploitation as a Level 5 felony under**
 - 33 **IC 35-42-4-4(b) or a Level 4 felony under IC 35-42-4-4(c).**
 - 34 ~~(16)~~ (17) Resisting law enforcement as a felony (IC 35-44.1-3-1).
 - 35 ~~(17)~~ (18) Unlawful possession of a firearm by a serious violent
 - 36 felon (IC 35-47-4-5).
 - 37 (b) As used in this section, "episode of criminal conduct" means
 - 38 offenses or a connected series of offenses that are closely related in
 - 39 time, place, and circumstance.
 - 40 (c) Except as provided in subsection (e) or (f) the court shall
 - 41 determine whether terms of imprisonment shall be served concurrently
 - 42 or consecutively. The court may consider the:



1 (1) aggravating circumstances in IC 35-38-1-7.1(a); and
 2 (2) mitigating circumstances in IC 35-38-1-7.1(b);
 3 in making a determination under this subsection. The court may order
 4 terms of imprisonment to be served consecutively even if the sentences
 5 are not imposed at the same time. However, except for crimes of
 6 violence, the total of the consecutive terms of imprisonment, exclusive
 7 of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10
 8 (before its repeal) to which the defendant is sentenced for felony
 9 convictions arising out of an episode of criminal conduct shall not
 10 exceed the period described in subsection (d).

11 (d) Except as provided in subsection (c), the total of the consecutive
 12 terms of imprisonment to which the defendant is sentenced for felony
 13 convictions arising out of an episode of criminal conduct may not
 14 exceed the following:

15 (1) If the most serious crime for which the defendant is sentenced
 16 is a Level 6 felony, the total of the consecutive terms of
 17 imprisonment may not exceed four (4) years.

18 (2) If the most serious crime for which the defendant is sentenced
 19 is a Level 5 felony, the total of the consecutive terms of
 20 imprisonment may not exceed seven (7) years.

21 (3) If the most serious crime for which the defendant is sentenced
 22 is a Level 4 felony, the total of the consecutive terms of
 23 imprisonment may not exceed fifteen (15) years.

24 (4) If the most serious crime for which the defendant is sentenced
 25 is a Level 3 felony, the total of the consecutive terms of
 26 imprisonment may not exceed twenty (20) years.

27 (5) If the most serious crime for which the defendant is sentenced
 28 is a Level 2 felony, the total of the consecutive terms of
 29 imprisonment may not exceed thirty-two (32) years.

30 (6) If the most serious crime for which the defendant is sentenced
 31 is a Level 1 felony, the total of the consecutive terms of
 32 imprisonment may not exceed forty-two (42) years.

33 (e) If, after being arrested for one (1) crime, a person commits
 34 another crime:

35 (1) before the date the person is discharged from probation,
 36 parole, or a term of imprisonment imposed for the first crime; or

37 (2) while the person is released:

38 (A) upon the person's own recognizance; or

39 (B) on bond;

40 the terms of imprisonment for the crimes shall be served consecutively,
 41 regardless of the order in which the crimes are tried and sentences are
 42 imposed.



(f) If the factfinder determines under IC 35-50-2-11 that a person used a firearm in the commission of the offense for which the person was convicted, the term of imprisonment for the underlying offense and the additional term of imprisonment imposed under IC 35-50-2-11 must be served consecutively.

SECTION 17. IC 35-50-2-7, AS AMENDED BY P.L.168-2014, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) A person who commits a Class D felony (for a crime committed before July 1, 2014) shall be imprisoned for a fixed term of between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 1/2) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

(b) A person who commits a Level 6 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between six (6) months and two and one-half (2 1/2) years, with the advisory sentence being one (1) year. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

(c) Notwithstanding subsections (a) and (b), if a person has committed a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014), the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly. However, the court shall enter a judgment of conviction of a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) if:

(1) the court finds that:

(A) the person has committed a prior, unrelated felony for which judgment was entered as a conviction of a Class A misdemeanor; and

(B) the prior felony was committed less than three (3) years before the second felony was committed;

(2) the offense is domestic battery as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-42-2-1.3; or

(3) the offense is possession of child pornography ~~(IC 35-42-4-4(c))~~: **(IC 35-42-4-4(d))**.

The court shall enter in the record, in detail, the reason for its action whenever it exercises the power to enter judgment of conviction of a Class A misdemeanor granted in this subsection.

(d) Notwithstanding subsections (a) and (b), the sentencing court may convert a Class D felony conviction (for a crime committed before



July 1, 2014) or a Level 6 felony conviction (for a crime committed after June 30, 2014) to a Class A misdemeanor conviction if, after receiving a verified petition as described in subsection (e) and after conducting a hearing of which the prosecuting attorney has been notified, the court makes the following findings:

(1) The person is not a sex or violent offender (as defined in IC 11-8-8-5).

(2) The person was not convicted of a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) that resulted in bodily injury to another person.

(3) The person has not been convicted of perjury under IC 35-44.1-2-1 (or IC 35-44-2-1 before its repeal) or official misconduct under IC 35-44.1-1-1 (or IC 35-44-1-2 before its repeal).

(4) At least three (3) years have passed since the person:

(A) completed the person's sentence; and

(B) satisfied any other obligation imposed on the person as part of the sentence; for the Class D or Level 6 felony.

(5) The person has not been convicted of a felony since the person:

(A) completed the person's sentence; and

(B) satisfied any other obligation imposed on the person as part of the sentence; for the Class D or Level 6 felony.

(6) No criminal charges are pending against the person.

(e) A petition filed under subsection (d) or (f) must be verified and set forth:

(1) the crime the person has been convicted of;

(2) the date of the conviction;

(3) the date the person completed the person's sentence;

(4) any obligations imposed on the person as part of the sentence;

(5) the date the obligations were satisfied; and

(6) a verified statement that there are no criminal charges pending against the person.

(f) If a person whose Class D or Level 6 felony conviction has been converted to a Class A misdemeanor conviction under subsection (d) is convicted of a felony not later than five (5) years after the conversion under subsection (d), a prosecuting attorney may petition a court to convert the person's Class A misdemeanor conviction back to a Class D felony conviction (for a crime committed before July 1, 2014) or a



Level 6 felony conviction (for a crime committed after June 30, 2014).

SECTION 18. IC 35-50-6-3.3, AS AMENDED BY P.L.187-2015, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3.3. (a) In addition to any educational credit a person earns under subsection (b), or good time credit a person earns under section 3 or 3.1 of this chapter, a person earns educational credit if the person:

- (1) is in credit Class I, Class A, or Class B;
- (2) has demonstrated a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain one (1) of the following:

(A) A general educational development (GED) diploma under IC 20-20-6 (before its repeal) or IC 22-4.1-18, if the person has not previously obtained a high school diploma.

(B) Except as provided in subsection (o), a high school diploma, if the person has not previously obtained a general educational development (GED) diploma.

(C) An associate degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)) earned during the person's incarceration.

(D) A bachelor degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)) earned during the person's incarceration.

(b) In addition to any educational credit that a person earns under subsection (a), or good time credit a person earns under section 3 or 3.1 of this chapter, a person may earn educational credit if, while confined by the department of correction, the person:

- (1) is in credit Class I, Class A, or Class B;
- (2) demonstrates a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain at least one (1) of the following:

(A) A certificate of completion of a career and technical or vocational education program approved by the department of correction.

(B) A certificate of completion of a substance abuse program approved by the department of correction.

(C) A certificate of completion of a literacy and basic life skills program approved by the department of correction.

(D) A certificate of completion of a reformatory program approved by the department of correction.

(c) The department of correction shall establish admissions criteria and other requirements for programs available for earning educational



1 credit under subsection (b). A person may not earn educational credit
 2 under both subsections (a) and (b) for the same program of study. The
 3 department of correction, in consultation with the department of
 4 workforce development, shall approve a program only if the program
 5 is likely to lead to an employable occupation.

6 (d) The amount of educational credit a person may earn under this
 7 section is the following:

8 (1) Six (6) months for completion of a state of Indiana general
 9 educational development (GED) diploma under IC 20-20-6
 10 (before its repeal) or IC 22-4.1-18.

11 (2) One (1) year for graduation from high school.

12 (3) Not more than one (1) year for completion of an associate
 13 degree.

14 (4) Not more than two (2) years for completion of a bachelor
 15 degree.

16 (5) Not more than a total of one (1) year, as determined by the
 17 department of correction, for the completion of one (1) or more
 18 career and technical or vocational education programs approved
 19 by the department of correction.

20 (6) Not more than a total of six (6) months, as determined by the
 21 department of correction, for the completion of one (1) or more
 22 substance abuse programs approved by the department of
 23 correction.

24 (7) Not more than a total of six (6) months, as determined by the
 25 department of correction, for the completion of one (1) or more
 26 literacy and basic life skills programs approved by the department
 27 of correction.

28 (8) Not more than a total of six (6) months, as determined by the
 29 department of correction, for completion of one (1) or more
 30 reformatory programs approved by the department of correction.
 31 However, a person who is serving a sentence for an offense listed
 32 under IC 11-8-8-4.5 may not earn educational credit under this
 33 subdivision.

34 However, a person who does not have a substance abuse problem that
 35 qualifies the person to earn educational credit in a substance abuse
 36 program may earn not more than a total of twelve (12) months of
 37 educational credit, as determined by the department of correction, for
 38 the completion of one (1) or more career and technical or vocational
 39 education programs approved by the department of correction. If a
 40 person earns more than six (6) months of educational credit for the
 41 completion of one (1) or more career and technical or vocational
 42 education programs, the person is ineligible to earn educational credit



for the completion of one (1) or more substance abuse programs.

(e) Educational credit earned under this section must be directly proportional to the time served and course work completed while incarcerated. The department of correction shall adopt rules under IC 4-22-2 necessary to implement this subsection.

(f) Educational credit earned by a person under this section is subtracted from the release date that would otherwise apply to the person by the sentencing court after subtracting all other credit time earned by the person.

(g) A person does not earn educational credit under subsection (a) unless the person completes at least a portion of the degree requirements after June 30, 1993.

(h) A person does not earn educational credit under subsection (b) unless the person completes at least a portion of the program requirements after June 30, 1999.

(i) Educational credit earned by a person under subsection (a) for a diploma or degree completed before July 1, 1999, shall be subtracted from:

(1) the release date that would otherwise apply to the person after subtracting all other credit time earned by the person, if the person has not been convicted of an offense described in subdivision (2); or

(2) the period of imprisonment imposed on the person by the sentencing court, if the person has been convicted of one (1) of the following crimes:

(A) Rape (IC 35-42-4-1).

(B) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b) **or IC 35-42-4-4(c)**).

(E) Vicarious sexual gratification (IC 35-42-4-5).

(F) Child solicitation (IC 35-42-4-6).

(G) Child seduction (IC 35-42-4-7).

(H) Sexual misconduct with a minor (IC 35-42-4-9) as a:

(i) Class A felony, Class B felony, or Class C felony for a crime committed before July 1, 2014; or

(ii) Level 1, Level 2, or Level 4 felony, for a crime committed after June 30, 2014.

(I) Incest (IC 35-46-1-3).

(J) Sexual battery (IC 35-42-4-8).

(K) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.



- 1 (L) Criminal confinement (IC 35-42-3-3), if the victim is less
- 2 than eighteen (18) years of age.
- 3 (M) An attempt or a conspiracy to commit a crime listed in
- 4 clauses (A) through (L).
- 5 (j) The maximum amount of educational credit a person may earn
- 6 under this section is the lesser of:
- 7 (1) two (2) years; or
- 8 (2) one-third (1/3) of the person's total applicable credit time.
- 9 (k) Educational credit earned under this section by an offender
- 10 serving a sentence for stalking (IC 35-45-10-5), a felony against a
- 11 person under IC 35-42, or for a crime listed in IC 11-8-8-5, shall be
- 12 reduced to the extent that application of the educational credit would
- 13 otherwise result in:
- 14 (1) postconviction release (as defined in IC 35-40-4-6); or
- 15 (2) assignment of the person to a community transition program;
- 16 in less than forty-five (45) days after the person earns the educational
- 17 credit.
- 18 (l) A person may earn educational credit for multiple degrees at the
- 19 same education level under subsection (d) only in accordance with
- 20 guidelines approved by the department of correction. The department
- 21 of correction may approve guidelines for proper sequence of education
- 22 degrees under subsection (d).
- 23 (m) A person may not earn educational credit:
- 24 (1) for a general educational development (GED) diploma if the
- 25 person has previously earned a high school diploma; or
- 26 (2) for a high school diploma if the person has previously earned
- 27 a general educational development (GED) diploma.
- 28 (n) A person may not earn educational credit under this section if
- 29 the person:
- 30 (1) commits an offense listed in IC 11-8-8-4.5 while the person is
- 31 required to register as a sex or violent offender under IC 11-8-8-7;
- 32 and
- 33 (2) is committed to the department of correction after being
- 34 convicted of the offense listed in IC 11-8-8-4.5.
- 35 (o) For a person to earn educational credit under subsection
- 36 (a)(3)(B) for successfully completing the requirements for a high
- 37 school diploma through correspondence courses, each correspondence
- 38 course must be approved by the department before the person begins
- 39 the correspondence course. The department may approve a
- 40 correspondence course only if the entity administering the course is
- 41 recognized and accredited by the department of education in the state
- 42 where the entity is located.

